

EDMUND G. BROWN JR.
Attorney General of the State of California
MIGUEL A. NERI
Supervising Deputy Attorney General
FIEL D. TIGNO
Supervising Deputy Attorney General
DAVID PAI
Deputy Attorney General
State Bar No. 227058
1515 Clay Street
P. O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2148
Fax: (510) 622-2204

Attorneys for Defendant
California Department of Corrections
and Rehabilitation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROSARIO MARINELLO,

Plaintiff

vs

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,

Defendant.

Case No. CV08-0664 JW

**DECLARATION OF DAVID PAI IN
SUPPORT OF REPLY TO
PLAINTIFF'S OPPOSITION TO
DEFENDANT DEPARTMENT OF
CORRECTIONS AND
REHABILITATION'S MOTION TO
DISMISS THE COMPLAINT
[Fed.R.Civ.Proc Rule 12(b)(6)]**

Date: June 23, 2008

Time: 9:00 a.m.

Ctrm: 8

Judge: Hon. James Ware

I, David Pai, declare as follows:

1. I am an attorney duly licensed to practice in the U.S. District Court, Northern District of California.

2. I am a Deputy Attorney General at the California Department of Justice, and I represent Defendant in this matter.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

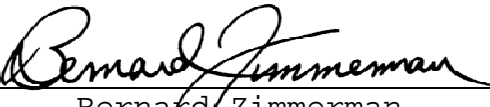
ROSARIO MARINELLO)	
)	
Plaintiff(s),)	No. C07-1117 BZ
)	
v.)	
)	ORDER DISMISSING COMPLAINT
CALIFORNIA DEPARTMENT OF)	
CORRECTIONS AND)	
REHABILITATION,)	
)	
Defendant(s).)	
_____)	

On February 23, 2007, plaintiff filed this employment discrimination complaint pro se and applied to proceed *in forma pauperis*. After a series of Orders requiring him to amend his *in forma pauperis* application, on June 27, 2007, I denied his application and ordered him to pay the filing fee by July 16, 2007. Thereafter, I granted plaintiff a series of extensions to pay the fee. On October 30, 2007 I granted plaintiff's request, ordered him to pay the fee by December 3, 2007 and cautioned him that "no further extensions will be granted, and failure to timely pay the fee may result in dismissal of plaintiff's suit."

1 On December 5, 2007 the court received a letter dated
2 December 2, 2007 asking that this case be placed "on hold
3 until the outcome of my most recent State Personnel Board
4 Appeal dated November 26th, 2007" and offering to pay the
5 filing fee "if the results are in [sic] not in my favor." The
6 request gives no indication of when this may happen.

7 It is unclear why plaintiff filed a discrimination
8 lawsuit if he was still pursuing an administrative appeal and
9 there is no justification for disobeying the Orders requiring
10 him to pay the filing fee. Accordingly, his requests for an
11 indefinite extension of time is **DENIED** and this case is
12 **DISMISSED WITHOUT PREJUDICE.**

13 Dated: December 20, 2007

14 
15 Bernard Zimmerman
United States Magistrate Judge

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